

DECISION



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**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-214201

DATE: July 10, 1984

MATTER OF: Honig Industrial Diamond Wheel,
Inc.

DIGEST:

Although bid was in the post office box designated in the solicitation the morning of bid opening, bid was properly rejected as late because the lateness in bid arriving at government installation was not caused by government mishandling, but rather by the bidder's failure to allow sufficient mailing time.

Honig Industrial Diamond Wheel, Inc. (Honig), protests the rejection of its bid under invitation for bids (IFB) No. DAAE07-84-B-A063 issued by the United States Army Tank-Automotive Command (TACOM), Warren, Michigan. We deny the protest.

The IFB was issued on November 23, 1983, with bid opening originally scheduled on December 21, 1983, at 9:30 a.m. Amendment No. 0001 changed the opening date to January 4, 1984, at 9 a.m. The IFB advised bidders that sealed bids should be addressed to the United States Army Tank-Automotive Command, P&P Directorate (bid opening), Post Office Box 1268, Warren, Michigan 48090-1268. Honig's bid was time/date stamped by the TACOM mail distribution center at 9:19 a.m., on January 4, and later time/date stamped in the bid opening room at 9:26 a.m. TACOM rejected the bid because none of the exceptions in the IFB's late bid clause applied.

The general rule is that the bidder has the responsibility to assure timely receipt of its bid and must bear the responsibility for late arrival unless the specific conditions of the solicitation for consideration of late bids are met. See Sigma Treatment Systems, B-207791, June 21, 1982, 82-1 C.P.D. ¶ 613. Provision L-3, clause 7(a), of the IFB provided that any late bid would not be considered unless it was received before award was made and it was sent by certified mail not later than the fifth calendar day prior to the date specified for the receipt of bids, or it is determined by the government that late receipt was due solely to mishandling by the

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government after timely receipt at the government installation. Honig's bid was mailed on December 31, 1983, 4 days before opening. Therefore, the only question before our Office is whether the government mishandled the bid.

Honig argues that the bid was mishandled because it was received in the post office designated in the IFB by 6 a.m., on January 4, 1984, well before the opening time, a fact corroborated by the Warren post office time/date stamp. Therefore, Honig contends that the government should have picked up the bid in time to have met the 9 a.m. opening time since TACOM commences its business day at 7:30 a.m., which Honig alleges is sufficient time to pick up and process mail.

In response, TACOM argues that our Office has held that "government installation" within the context of the "late bid" clause means local agency office and not the agency's post office box. See The Hoedads, B-185919, July 8, 1976, 76-2 C.P.D. ¶ 21. TACOM also cites Northern Illinois University, B-194055, Mar. 15, 1979, 79-1 C.P.D. ¶ 184, for the proposition that mishandling by a government agency refers to mishandling after receipt in the procuring agency's local office. TACOM therefore states that mishandling must be examined during the time after receipt at the installation. Applying the above reasoning, TACOM argues there was no government mishandling because Honig's bid was handled expeditiously between the time it was initially stamped at 9:19 a.m. and the time received in the bid opening room at 9:26 a.m.

We have recognized the obligation of the government to establish and implement procedures to insure that the transmission of bids from one place to another will not be unreasonably delayed and have distinguished between delays resulting from mishandling after receipt at the government installation and those attributable to mishandling during the process of receipt. The mishandling in the process of receipt by the government must be paramount in the failure of the bid to be received on time. See Sun International, B-205146, Jan. 24, 1983, 83-1 C.P.D. ¶ 78; 49 Comp. Gen. 697 (1970). Thus, we have held the rejection of a late bid improper where the agency had a policy against the acceptance of special delivery mail on the weekends but had established no procedures for the timely receipt of such bids prior to a Monday bid opening. Sun International, B-205146, supra.

TACOM reports that the following procedures are utilized by TACOM and the Warren post office for handling mail:

"One postal employee, who starts work at 5:30 a.m., assembles postage due mail and other accountable mail (i.e., certified, registered, and express mail) for firms who call for this mail by 8 a.m. [TACOM has indicated that it fell within this category]. At 8:15 a.m., a second postal employee opens a restricted window operation and assists in the delivery of mail to firms and postal box customers.

". . . the TACOM mail driver picks up the preloaded carts of mail [from the Warren Post Office] and loads them on the truck together with bags of large envelope mail, parcel post and small packages. He must then receipt individually for all accountable mail and have it logged in . . . by category (i.e., certified or registered) and by destination (i.e., Box 1268 (Bid Room), TACOM Building 200). Delays are sometimes encountered if firms or other postal box customers are ahead of the TACOM mail driver. The driver then returns directly to the TACOM Mail Room, where first priority is given to mail addressed to the Bid Room [round trip travel to and from post office loading and unloading, signing individually for certified and registered mail usually is executed from 8 a.m. to 9 a.m.] . . ."

Block 9 of the solicitation provided that bids "will be received at the place specified in block 8, or if handcarried, in the depository located in TACOM, BLDG. 231" until 9 a.m., and bids will be publicly opened at that time. Although block 8 designated the post office box as the mailing address, we believe it is clear that bids were not to be opened at the post office and must, therefore, be received at the post office in sufficient time to be delivered to the place of public opening by the 9 a.m. deadline. Yet Honig's bid was not in the post office box for the 9 a.m. bid opening until the morning of bid opening. On the other hand, we believe that TACOM established and followed reasonable procedures resulting in delivery of the bid within 1 hour between the post office and the TACOM installation. Therefore, we conclude that Honig's failure to allow sufficient mailing time to assure timely receipt of its bid, rather than government mis-handling, was the paramount cause for the bid arriving late.

The protest is denied.

for *Milton J. Aslan*
Comptroller General
of the United States